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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Assistance to Guatemala in the field of human rights

Report of the members of the Secretary-General's mission to Guatemala, Mr. Alberto Díaz Uribe, Mr. Diego García-Sayán and Mr. Yvon Le Bot, on the evolution of the situation of human rights in Guatemala in the light of the implementation of the peace agreements, submitted in accordance with Commission on Human Rights resolution 1997/51

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INTRODUCTION

1. The Commission on Human Rights has been considering the situation of human rights in Guatemala each year since its thirty-fifth session (1979). The topic has been dealt with successively by Viscount Colville of Culross (United Kingdom), as Special Rapporteur and Special Representative, and by Mr. Héctor Gros Espiell (Uruguay), Mr. Christian Tomuschat (Germany) and Mrs. Monica Pinto (Argentina), as independent experts to assist the Government of Guatemala in promoting and protecting human rights.

2. At its fifty-third session, the Commission on Human Rights adopted resolution 1997/51 of 15 April 1997. The Commission requested the Secretary-General, inter alia, to send a mission to Guatemala at the end of 1997 to submit a report to the Commission at its fifty-fourth session on the evolution of the situation of human rights in Guatemala in the light of the implementation of the peace agreements. The report is to take account of the verification work done by MINUGUA and the information submitted by the Government of Guatemala, the Follow-up Commission on compliance with the peace agreements, the political organizations and the non-governmental human rights organizations; it is also to refer to the implementation of the agreement on the provision of advisory services in the field of human rights signed by the Government of Guatemala and the United Nations High Commissioner for Human Rights, with a view to concluding the consideration of the case of Guatemala in the agenda of the Commission (paragraph 15).

3. The Secretary-General appointed Mr. Alberto Díaz Uribe (Colombia), Mr. Diego García-Sayán (Peru) and Mr. Yvon Le Bot (France) as members of the mission to Guatemala. The mission visited the country from 8 to 19 December 1997 and was accompanied by Mr. Miguel de la Lama, official of the Office of the United Nations High Commissioner for Human Rights.

4. The mission wishes to place on record the fact that it received full cooperation from the authorities of the Government of Guatemala, political organizations and representatives of social, Maya and human rights organizations in the fulfilment of its mandate. Special mention should also be made of the cooperation of the directors and officials of MINUGUA, the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Commission for Historical Clarification (CEH).

I. EVOLUTION OF THE SITUATION OF HUMAN RIGHTS

5. As recalled in the introduction to the present report, the Commission on Human Rights has been considering the situation of human rights in Guatemala since 1979. Through various mechanisms, including requests to the Secretary-General for reports, the appointment of a special rapporteur and then a special representative and the successive appointment of three independent experts to provide assistance to the Government of Guatemala, the Commission followed the situation of human rights in the country with particular attention for 19 years. After considering the reports submitted by the Secretary-General, the Commission decided in 1982 to appoint a special rapporteur whose mandate was to make a thorough study of the human rights situation in Guatemala (resolution 1982/31). Four years later, the Commission

decided to terminate that mandate and establish the mandate of Special Representative of the Commission to receive and evaluate the information received from the Government of Guatemala on the implementation of the new legal order for the protection of human rights (resolution 1986/62); both posts were held by Viscount Colville of Culross.

6. In 1987, the Commission on Human Rights decided to terminate the mandate of the Special Representative and requested the Secretary-General to appoint an expert with a view to assisting the Government of Guatemala in taking the necessary action for the further restoration of human rights (resolution 1987/530). The Secretary-General appointed Mr. Héctor Gros Espiell as the expert on 24 June 1987 and he submitted three reports to the Commission. Three years later, on 6 July 1990, Mr. Christian Tomuschat was appointed as independent expert. On 28 October 1993, Mrs. Mónica Pinto was appointed independent expert and served in that capacity until March 1997.

7. At the same time, and through the Secretary-General and his representatives, the United Nations played an important role as observer and moderator in the process of peace negotiations between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG). The process was based on the Esquipulas II Agreement concluded on 7 August 1987 between the Heads of State of the five Central American Republics (Procedure for the Establishment of a Firm and Lasting Peace in Central America). Its first achievement was the signing of the Basic Agreement for the Search for Peace by Political Means in Oslo, Norway, on 29 March 1990, which was followed by the Mexico Agreement of 26 April 1991 on the Procedure for the Search for Peace by Political Means and the Querétaro Agreement of 25 July 1991 on Democratization in the Search for Peace by Political Means. Substantive negotiations observed by the United Nations began to be held on this basis.

8. Within a new negotiating format, the Framework Agreement for the Resumption of the Negotiating Process between the Government of Guatemala and URNG was signed in Mexico City on 10 January 1994. Some three months later, on 29 March 1994, three particularly important instruments were signed at the headquarters of the Ministry of Foreign Affairs of Mexico: the Agreement on a Timetable for the Negotiation of a Firm and Lasting Peace in Guatemala; the Joint Statement on the Commission to Clarify Past Human Rights Violations during the Armed Conflict; and the Comprehensive Agreement on Human Rights (A/48/928-S/1994/448, annexes I, II and III), which established the United Nations Verification Mission in Guatemala (MINUGUA). The parties then entrusted MINUGUA with the task of receiving, evaluating and following up complaints of possible human rights violations; deciding whether or not particular violations existed, taking into account the investigations conducted by the competent constitutional bodies; and ensuring that such investigations were carried out independently, effectively and in accordance with the Constitution and international human rights standards.

9. Various agreements were later concluded that paved the way for the signing in Guatemala City on 29 December 1996 of the Agreement on a Firm and Lasting Peace, which put an end once and for all to an armed conflict that had lasted 36 years. These agreements are the following:

(a) The Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, signed in Oslo, Norway, on 17 June 1994;

(b) The Agreement on the Establishment of the Commission to Clarify Past Human Rights Violations and Acts of Violence that have Caused the Guatemalan Population to Suffer, also signed in Oslo on 23 June 1994;

(c) The Agreement on the Identity and Rights of Indigenous Peoples, signed in Mexico City on 31 March 1995;

(d) The Agreement on Social and Economic Aspects and the Agrarian Situation, signed in Mexico City on 6 May 1996;

(e) The Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, signed in Mexico City on 19 September 1996;

(f) The Agreement on the Definitive Cease-fire, signed in Oslo on 4 December 1996;

(g) The Agreement on Constitutional Reforms and the Electoral Regime, signed in Stockholm, Sweden, on 7 December 1996;

(h) The Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca, signed in Madrid, Spain, on 12 December 1996; and

(i) The Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements, signed in Guatemala City on 29 December 1996.

10. The particular attention that the Commission on Human Rights has paid to the situation of human rights in Guatemala and the determination and perseverance of the people and the Government of Guatemala and URNG to continue and complete the peace process have been decisive factors in the substantial improvement the mission has observed in the human rights situation in the country. All State and non-governmental organization sectors interviewed by the mission agreed with its assessment that the human rights situation in Guatemala had improved substantially compared with the past. At present, no one says that there is a State policy of violating human rights or that the violations that are still occurring are on a large scale and systematic in nature.

11. This does not, however, mean that there are no longer any problems affecting the exercise and enjoyment of human rights. Some have been inherited from the past; the solution to others will require a more developed and refined democratic structure. A matter of particular concern is the continued existence of the problem of impunity; continuing structural defects in the system of the administration of justice and criminal investigation; the situation of citizen security; frequent denials of due process; the continuing existence of discrimination against indigenous peoples; the lack of economic, social and cultural rights; and the weakness of national institutions for the promotion and protection of human rights.

12. One problem affecting the smooth implementation of the agreements is that they have practically not been disseminated to the sectors of Guatemalan society which were not directly involved in the peace process. The mission considers it to be of vital importance that all the agreements should be disseminated to all Guatemalans, thereby provoking discussion and analysis. The only guarantee that the agreements will serve their purpose is that Guatemalan society as a whole (indigenous peoples, workers, trade unions, political organizations, peasants, students, non-governmental organizations, etc.) takes part in their discussion, takes possession of them and mobilizes to guarantee their implementation.

13. During its stay in the country, the mission received an insignificant number of complaints of human rights violations, which are contained in annex II to this report. These complaints were brought to the attention of MINUGUA, which had, in the majority of cases, already received, and was verifying, them. It should be noted that the purpose of the present report is not to make a detailed study of the situation of human rights in the country. Its purpose is, rather, pursuant to Commission on Human Rights resolution 1997/51, to describe "the evolution of the situation of human rights in Guatemala in the light of the implementation of the peace agreements" (paragraph 15). It therefore analyses in detail some topics that the mission considers to be of particular relevance for the consideration of the evolution of the situation in the context of the implementation of the agreements, without claiming to analyse the level of enjoyment or protection of each and every one of the civil, political, economic, social and cultural rights.

II. STRENGTHENING OF CIVILIAN POWER

14. The strengthening of civilian power is one of the basic objectives of the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, which was concluded by the Government of Guatemala and URNG on 19 September 1996 and in which civilian power is defined as "the expression of the will of the people through the exercise of political rights, since it is of vital importance to strengthen the legislative branch, reform the administration of justice and guarantee security" (preamble of the Agreement, paragraph 5). The positive trend that has taken shape with regard to the enjoyment of human rights has to become a basic and lasting ingredient of Guatemalan society. To this end, such efforts have to be sustained over time, on a continuous and systematic basis and, for this purpose, the strengthening of civilian power through the full and faithful implementation of this Agreement is an important tool.

15. In order to create a positive climate for the enjoyment of human rights, the violation of human rights must, of course, never again become State policy in the future. Current political conditions and the general evolution taking place in the context of the adoption and implementation of the peace agreements allow for reasonable optimism in this regard. Respect for human rights is, however, not just a matter of refraining from violations of such rights, but primarily one of the full exercise by the State of its duty of protection, which is nothing more than that of preventing, investigating and punishing violations of human rights. This means building institutions that are prepared to protect the rights of the population and to take the

appropriate action in respect of acts or situations, such as ordinary crime, which can damage the process of the building of a society that fully respects the rights of all. For this purpose, it is necessary to deal with the "deficiencies and weaknesses in civil institutions" (preamble to the agreement, paragraph 2), as stated in the agreement itself. To do so properly, however, means recognizing the history of political and social exclusion that has characterized Guatemalan society - and going beyond it; part of this complex history has been the inability to recognize its multi-ethnic nature.

16. During the current transition period, a widespread perception of growing citizen insecurity is taking shape that makes it particularly urgent for the judiciary and citizen security machinery to operate effectively. Otherwise, there may be a temptation to act outside the law, thereby undermining the efforts that Guatemalans are making to bring about democracy. This is serious if it is borne in mind that, throughout history, the deficiencies and weaknesses of the rule of law have helped to create a culture in which the settlement of disputes has tended to take place outside institutional channels. The exercise of fundamental rights and an effective system for the prevention, prosecution and punishment of crime are convergent objectives that feed on one another. This question gives rise to enormous problems and difficulties to be overcome. The institutional matters in question are dealt with in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society.

17. The inter-agency coordination machinery established in September 1997 between the Supreme Court of Justice, the Public Prosecutor's Office and the Ministry of the Interior is a positive measure for improving the effectiveness of all three institutions. However, this coordination could well set very specific goals by giving priority to some areas or problems, such as organized crime, so that, in the short term, it would achieve results that could be seen by all. Setting common goals for this purpose is not contrary to the autonomy of each institution and, above all, makes it possible to refine coordination machinery and make progress in creating confidence in institutional procedures as a means of settling disputes and combatting crime.

18. In this chapter, we shall refer to the administration of justice, to institutional responses in respect of citizen security and to the army. There has been some progress in these three areas, but there are also great difficulties. The Government has submitted the relevant draft constitutional amendments in accordance with the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society. It has also taken specific steps to begin the process of giving effect to many of them. However, there are still some problems and difficulties that might affect the full implementation of the Agreement and the achievement of objectives for improving the human rights situation.

19. With regard to the administration of justice, the mission confirms that, as provided in the Agreement, one priority is "to reform the administration of justice in order to put an end to inefficiency, eradicate corruption and guarantee free access to the justice system, impartiality in the application of the law, judicial independence, ethical authority and the integrity and modernization of the system as a whole" (chapter III, paragraph 10). The

mission found that, despite the progress made, the problems referred to in the Agreement in relation to "antiquated legal practices, slow proceedings, the absence of modern office management systems and the lack of supervision of officials and employees ... [which] breed corruption and inefficiency" (chapter III, paragraph 8), as well as violations of due process, continue to exist. It also found that the intimidation of witnesses continues to be a problem. All this is reflected, inter alia, in the widespread denial of justice which has particular repercussions as far as criminal matters are concerned, since a good many of the offences committed go unpunished as a result of the shortcomings of the system. In keeping with the provisions of the Agreement, some encouraging steps have been taken, but, at the same time, there are still some important problems to be solved.

20. One important measure was the establishment in March 1997, in accordance with Government Agreement No. 221-97, of the Commission on the Strengthening of the Justice System, which was provided for in the Agreement "to prepare a report and a set of recommendations for implementation as soon as possible" (chapter IV, paragraph 15). The Commission, which is composed of persons representing the various sectors, held public hearings to which it convened representatives of public institutions, civil society and indigenous peoples, the private sector, the academic sector and the international community. The report and the recommendations submitted by the Commission on 31 August 1997 are the encouraging results of these efforts. They contain various proposals for the modernization and professionalization of the system, the recognition of multiculturalism and ethnicity and the affirmation of legal certainty, thereby giving effect in a coherent and consistent manner to the provisions contained in the Agreement. They specifically refer to the constitutional amendments that will serve as a basis for the reform of the judiciary, which is regarded as a matter of priority by the parties to the Agreement. Having had its mandate extended for six months more, as from September 1997, in accordance with Government Agreement No. 651-95 of 5 September 1997, the Commission hopes to make contributions in addition to those that already exist.

21. Particular attention is drawn to the recommendations on modernization, which stress that the Supreme Court of Justice should have strictly jurisdictional functions and that the administration of the judiciary should be the responsibility of the President of the Supreme Court assisted by specialized officials. As to "professionalización", appropriate recommendations are formulated on the Career Judicial Service Act, the length of service of judges, magistrates and members of the Supreme Court the process of their selection and appointment. The "multi-ethnic, multicultural and multilingual character" of the country is expressly recognized, as is the need to acknowledge the "existence of principles, criteria and procedures that the indigenous peoples use to settle disputes between members of their community". 1/

22. The mission considers that the report and the recommendations are of basic importance and adequately give effect to the relevant provisions of the Agreement on the Strengthening of Civilian power and on the Role of the Armed Forces in a Democratic Society. When it visited the country in December 1997, the mission nevertheless found that the Multiparty Commission (an ordinary commission of the Congress) was not taking account of these recommendations in

such important matters as the separation between administrative and jurisdictional functions, efforts to professionalize judges and magistrates through appropriate machinery for their selection and appointment and job security and length of service. In the mission's view, the recommendations by the Commission on the Strengthening of the Justice System are being politicized by the action of the political parties represented in the Congress; they are thus being ignored or undermined, contrary to the letter and spirit of the Agreement.

23. Steps have been taken to improve the training of judges, magistrates and members of the Public Prosecutor's Office with a view to their professionalization. Although the Judicial Training School and the training unit of the Public Prosecutor's Office have been strengthened, as provided in the Agreement (chapter III, paragraph 16 (h)), these efforts have to be consolidated and intensified. With regard to the judiciary, it is encouraging that about 40 judges were selected following an evaluation and competitive examination organized with the participation of the Judicial Training School. This is a step in the direction of what the Career Judicial Service Act should contain. With regard to the Public Prosecutor's Office, the widespread perception among institutions and Guatemalan society in general is that, despite the efforts being made, there continue to be serious shortcomings in the soundness and training of its members and, in particular, its possibilities of carrying out its constitutional functions effectively. This is particularly serious in a country such as Guatemala, which has an adversarial criminal law system, which, as is known, places the burden of conducting the investigation on the prosecutors. Although there have been positive steps to strengthen the system of the Public Defender's Office, its professional nature also continues to be limited and it is still very far from the "functional autonomy" and "countrywide coverage" referred to in the Agreement (chapter III, paragraph 13 (b)).

24. Ethnic plurality should be reflected in legal plurality, as provided in the Agreement and ensured by the Commission on the Strengthening of the Justice System. In this connection, encouraging steps have been taken by public institutions, such as the judiciary, the Public Prosecutor's Office and the Public Defender's Office to hire bilingual officials. It is nevertheless important that the required attention should be paid to the recommendation by the Commission that the constitutional amendments should take account of article 203 of the Constitution, which makes the administration of justice the sole responsibility of the Supreme Count of Justice and other courts. The recognition of customary law in the context of the rights provided for in the Constitution and international instruments is essential. It is a positive sign that the community justices of the peace set up as a result of the recent amendments to the Code of Criminal Procedure are empowered to take account of community customs in the settlement of disputes.

25. A question which is closely linked to the topic of the strengthening of civilian power, but which is referred to in the Comprehensive Agreement on Human Rights, is that of the strengthening of human rights bodies and, in particular, the Office of the Human Rights Procurator. In this connection, the joint efforts made by the international community and the Procurator have to aim as a matter of priority at strengthening his investigation capacity and establishing the facts so that the relevant recommendations may be formulated

in accordance with the requirements of the situation. In the mission's opinion, MINUGUA has an important role to play in the gradual, but speedy, transfer of its technical capacity in this regard. To this end and as part of this process, the budget resources allocated to the Office of the Human Rights Procurator should be increased in order to strengthen its operational capacity.

26. An important issue in the administration of justice is the implementation of international principles and standards in the field of human rights. In her last report to the Commission on Human Rights (E/CN.4/1997/90, para. 35), the Independent Expert drew attention to the sensitivity of the amendments to the Penal Code which were made in 1995 and which make the death penalty applicable to offences to which it did not apply when the American Convention on Human Rights was ratified. It should be recalled that, in accordance with international law and the commitment made by the Government of Guatemala in the Comprehensive Agreement on Human Rights, legal provisions, as well as the conduct of the courts in particular and of officials in general, must be in conformity with the standards and principles contained in the international instruments on human rights to which the country is a party. This does not imply any waiver of sovereignty or of the functions assigned by the Constitution to the various branches of Government, but involves taking account of the international system which has been built with the active participation of Guatemala, among other countries, and which establishes minimum standards that must be respected.

III. CITIZEN SECURITY, NATIONAL CIVIL POLICE AND ARMY

27. The problem of citizen insecurity is nothing new and continues to be one of the main matters of concern to Guatemalans. Information from the Ministry of the Interior indicates that the number of offences against human life and property has been going down since the formation and operation of the new National Civil Police (PNC) provided for in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (chapter IV, paragraph 21).

28. The mission saw that the process of converting the police forces into a national civil police under the supervision of the Ministry of the Interior began with the recycling of members of the former police force and the entry of new staff trained at the Police Academy (chapter V, paragraph 28). At the end of the first phase of training, the first elements selected were deployed in Guatemala City and El Petén Department.

29. Although efforts to improve the situation with regard to citizen security are beginning to yield some results, there has been an obvious increase in the feeling of insecurity and the perception that the signing of the peace agreements has created more insecurity. This opinion, which has been encouraged by some sectors, is adversely affecting the full exercise of human rights and the implementation of the peace agreements by giving rise to responses that are outside institutional channels. The dozens of lynchings of alleged offenders, many of which have taken place in the presence of police authorities powerless to stop them, as well as some evidence of cases of "social cleansing", are examples of these dangers.

30. The number of abductions and cases of extortion that are committed in Guatemala is high; information from the media reflects this situation. However, figures supplied by the Office of the Director of the New National Civil Police show that, in the last few months of 1997, the number of abductions dropped. There was an average of three abductions a day during the first quarter of 1996, before the signature of the Agreement on a Firm and Lasting Peace (E/CN.4/1997/90, para. 42). Information from various sources and from MINUGUA in its seventh report (A/52/330) indicate that the Presidential Chief of Staff, a body whose dissolution is provided for in the Agreement (chapter IV, paragraph 46), has been taking part in some anti-kidnapping operations, exceeding its functions and overstepping the boundary of the rule of law (A/52/330, para. 29). The mission considers it advisable that all such operations should be conducted by the National Civil Police.

31. Problems with regard to the establishment of the new police force, the time required for the genuine and effective deployment of the new structure of the National Civil Police throughout the territory (20,000 personnel by late 1999) and the high crime rate have required the presence of the army in public security operations, even in areas where armed conflict was taking place not long ago. It is clear to the mission that the army's presence in this type of operation is temporary, but it does highlight the need to ensure that the deployment of the army in citizen security operations is accompanied by government measures clearly spelling out the purpose and scope of and the conditions for its temporary participation in such operations, as well as the implementation of the necessary monitoring machinery.

32. In view of the limited effectiveness of the temporary deployment of army troops in citizen security operations if military personnel is not trained in the methods of a body which carries out police work, the mission considers it recommendable that such personnel should receive training of this kind.

33. Bearing in mind the urgent need for the selection, incorporation and deployment of PNC personnel, the mission believes that the Police Academy should place particular emphasis on setting up ongoing training programmes for the entire police force and improving the training of personnel carrying out criminal intelligence and investigation work.

34. The reduction of the size of the Guatemalan army is taking place in accordance with its new functions and the timetable provided for in the Agreement on the Strengthening of Civilian Power and on the Rule of the Armed Forces in a Democratic Society (chapter VII, paragraph 63). In addition to the reduction of regular army staff, the Voluntary Civil Defence Committees (CVDC) were demobilized and weapons belonging to the army were taken back (chapter VII, paragraph 61). The demobilization of the Mobile Military Police (PMA), which is, according to the Agreement (chapter VII, paragraph 62), scheduled for the end of 1997, took place in two phases, the second of which was completed on 15 December 1997 with the demobilization of the last 1,370 members of the Mobile Military Police. At the end of 1996, before the signing of the Agreement on a Firm and Lasting Peace, this army unit had about 2,500 members. The information provided by the Ministry of Defence and the Secretariat for Peace (SEPAZ) also indicates that the objective of reducing the army by 33 per cent in 1997 has been achieved.

35. Various sources report that former members of the army, particularly the disbanded Mobile Military Police, are taking part in criminal activities. The mission considers that the Government has to intensify the productive reintegration programmes referred to in the Agreement (chapter VII, paragraph 65) and intended for members of the armed forces who demobilize. The mission therefore appeals to the international community and international organizations with experience in this regard to provide technical, financial and human resources to facilitate the task being carried out by the Government of Guatemala.

36. With regard to State intelligence bodies, the Government requested the postponement of the submission of the set of measures establishing new methods for the monitoring of intelligence bodies and the establishment of the Strategic Analysis Secretariat in the Office of the President and the Civilian Intelligence and Information Analysis Department in the Ministry of the Interior, as referred to in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (chapter IV.E., paragraphs 47 to 52). These important measures will give civilian power functions which were until recently concentrated in the hands of the army.

IV. SOCIAL AND ECONOMIC ASPECTS

37. The Agreement on Social and Economic Aspects and the Agrarian Situation, commonly known as the Social and Economic Agreement, signed in Mexico City on 6 May 1996, establishes conditions to guarantee economic development, social justice and the democratization of the State on the basis of the participation of all sectors of civil society. In this connection, the mobilization and participation of all actors are essential for the consolidation of the peace process. One limiting factor has to be taken into account: in the first year of the implementation of the Agreement (1997), the Civil Society Assembly and some of the sectors represented in it lost much of their dynamism and strength. Economic and social policies were thus implemented in an atmosphere characterized by a fair amount of apathy, without strong pressure by other actors to make the Agreement work. This chapter deals only with some of the issues in the Social and Economic Agreement that have been discussed and debated in the Congress, the media and public opinion.

38. The tax burden in Guatemala is one of the lowest, if not the lowest, in Latin America. The Agreement provides that, by the year 2000, it is to be increased by at least 50 per cent as compared with its 1995 level (7.6 per cent of GDP). The progress made in 1997, when the rate was about 9 per cent, is encouraging, but does not ensure that the objective will be achieved. The success of the Government of Guatemala in this regard will depend on its ability to combat tax evasion effectively and systematically. Accordingly, the Government submitted a bill to the Congress for the establishment of a Tax Administration Supervisory Board which was finally adopted in January 1998 after problems in obtaining the necessary two-thirds majority were overcome. In principle, this will create an instrument for the implementation of a tax policy that is "fair, equitable and, on the whole progressive" (Social and Economic Agreement, chapter IV.B., paragraph 49 (a)).

39. With regard to agrarian land ownership, the sources consulted all agree that Guatemala continues to be characterized by extreme inequality in the distribution of property and the heavy concentration of the best land in the hands of a very small sector of the population. The Social and Economic Agreement provides for a set of varied and flexible measures and mechanisms to unblock the agrarian situation, at least in part, and settle a number of conflicts through negotiation, the establishment of a land market and rural development.

40. In 1997, the main focus of the Government's attention was the expansion, creation and adoption of institutional instruments to give effect to some of these measures: the National Agricultural Council (CONADEA); the Presidential Department for Legal Assistance and the Settlement of Land Disputes (CONTIERRA); the Land Trust Fund (FONATIERRA); the Inter-Agency Commission for the Strengthening and Development of Land Ownership (the "Tool" Commission); and the Rural Development Bank (BANRURAL, to replace the National Rural Development Bank (BANDESA)). Representatives of the Government, peasant organizations and business organizations in the sector meet in these bodies and communicate with one another.

41. The Land Trust Fund should be the linchpin of this process. Two of the 10 mechanisms designed to give the Fund a stock of land to be distributed among landless peasants might demonstrate their effectiveness in the short term: (a) the recovery of national land held unlawfully in settlement areas, particularly El Petén and the Franja Transversal del Norte; and (b) the purchase of land by means of funds earmarked for this purpose by the Government and, possibly, other agencies.

42. Few recoveries of land acquired unlawfully have been made so far. According to the Director of CONTIERRA, 40,000 hectares in San Roman, El Petén Department, which were taken over by the army in the past, were expropriated and reassigned for the benefit of 2,000 families and the establishment of a forestry reserve; this case might serve as a precedent and an example. The State has so far not been able to buy enough land to begin satisfying the enormous existing demand (56,000 requests recorded and a population of landless peasants estimated at 300,000 families).

43. The decline in land invasions and the relative tranquillity in the countryside in 1997 may be only of short-term duration. As long as there are no programmes and activities designed to deal with unemployment and underemployment, land will continue to be a key issue that gives rise to conflicts at present and, above all, in future. Of the conflicts that have taken place since the signing of the Agreement on a Firm and Lasting Peace, many are connected with disputes over property rights, such as the Sayaxché conflict in El Petén Department, which led to violence, or the demarcation of boundaries between communities and towns, such as the conflict between the communities of Argueta and Barreneche in Sololá and Totonicapán Departments.

44. The funding efforts made by the Government in education and health have gone together with efforts to modernize public institutions in these sectors, to involve non-governmental organizations and to mobilize the population. For the purpose of lowering the illiteracy rate to 30 per cent (in 1995, it stood at 40 per cent at the national level and 70 per cent in rural areas), emphasis

has been placed on the National Self-Management Programme for Educational Development (PRONADE), which relies on communities to make up for the lack of schools and absenteeism by teachers in rural areas. The Advisory Commission for Educational Reform was established in late 1997.

45. Like PRONADE, the Integrated Health Care System seeks to involve communities to make up for deficiencies in public health services. However, situations such as the one which occurred in December 1997 in Ilom, Chajur Municipality, El Quiché Department, reflect the urgent need to improve national coverage of this public service (an epidemic of whooping cough caused the death of a large number of children).

46. Labour disputes primarily affect two sectors: public administration and plantations and refineries. They are mainly the result of wage demands, but may also take place because of non-payment of the minimum wage. Restrictions on trade union freedom are less numerous and serious than in the past. The General Confederation of Guatemalan Workers nevertheless informed the mission of eight cases of estate owners who had dismissed or evicted more than 100 trade union workers and who refused to reinstate them in their jobs despite existing court orders. A number of persons with whom the mission spoke complained about the ineffectiveness of the labour courts and their inability to enforce their decisions.

47. The Social and Economic Agreement emphasizes the "need to strengthen women's participation in economic and social development on equal terms". Little attention is paid in Guatemala to women's rights as a separate issue. Indigenous women are doubly disadvantaged and discriminated against. One attempt to help deal with this marginalization and discrimination was the establishment, in November 1997, of the National Women's Forum, comprising 200 women delegates elected by their communities, associations or organizations.

V. IDENTITY AND RIGHTS OF INDIGENOUS PEOPLES

48. The Agreement on the Identity and Rights of Indigenous Peoples, 2/ commonly referred to as the Indigenous Agreement, which was signed on 31 March 1995, is an innovative agreement 3/ of notable historical importance, although its implementation and verification raise considerable problems. Nevertheless, the organizations that make up the Coordination Office of Organizations of the Mayan People of Guatemala (COPMAGUA) gave the newly concluded Agreement their endorsement. These organizations have committed themselves to the Agreement and have become its main advocates, partially offsetting the deficiencies of the official institutions and agencies in this area. The Agreement has thus become a kind of instrument for bringing together organizations that were seriously divided.

49. The Mayan organizations are one of the 11 sectors represented in the Civil Society Assembly, but the decline in activity of this coordinating body (the Catholic Church, which had played a leading role, has reduced its participation) makes it even more difficult to answer the question of which sectors, outside the indigenous world, are the most likely to support the implementation of this Agreement and see it through. At the executive level, indigenous participation is limited to participation in advisory commissions.

Indigenous representation in the Congress is also low: 6 deputies, 3 of whom are women (of a total of 80 deputies). At the municipal government level, a new generation of indigenous leaders is coming to the fore, frequently through election to civic committees.

50. In Guatemala, where they make up the majority of the population, indigenous people are the victims of de facto and, less frequently, de jure discrimination. There are no laws legitimizing or institutions advocating such discrimination, and it cannot be eliminated by denouncing and dismantling some kind of legal apartheid. The Agreement recognizes indigenous peoples' identity, calls for an end to the discrimination against them and recognizes their specific rights: on the one hand, cultural rights (recognition of Mayan languages, multilingual education, Maya spirituality and worship) and, on the other, specific civil, political and social and economic rights (revival of indigenous communities and authorities at the local level, regionalization, mechanisms for consultation and participation, customary law, communal lands).

51. To this end, the Agreement provides for constitutional, legislative and administrative reforms, which are being studied by several of the commissions established in the course of 1997. These joint commissions (made up of an equal number of representatives of the Government and the indigenous organizations) are one response, however limited, to one of the Indigenous Agreement's tenets, that "all matters of direct interest to the indigenous peoples need to be dealt with by and with them". The commissions deal with the following topics: official recognition of indigenous languages; spirituality and holy places; educational reform; indigenous land rights; participation, and reforms institutionalizing participation by indigenous people at all levels. Representatives of indigenous organizations are also found among the membership of other commissions dealing with general topics: CONTIERRA, the Commission to clarify past human rights violations, the Follow-up Commission and the Commission on the Strengthening of the Justice System.

52. On their own initiative, but in the framework of the Indigenous Agreement, the Mayan organizations have also established the Commission on the Rights of Indigenous Women, which submitted a proposal in December 1997 for the establishment of a Public Defender's Office for Indigenous Women. The Commission is also represented in the National Women's Forum.

53. One crucial question concerns the implementation of the Indigenous Agreement at the local and regional levels. In Guatemala as elsewhere, indigenous communities have for several decades been in the midst of a serious crisis linked to modernization, which has been aggravated by the conflict. According to the information collected by the mission, the Government has not yet introduced measures for encouraging or developing the indigenous communities' forms of social organization. Indigenous participation in the framework of the country's regionalization process has even less of a place on the agenda. Yet indigenous people, through their civic committees and independently, are taking on an increasing share of municipal responsibilities.

54. Indigenous people have met widespread and systematic discrimination in their dealings with the justice system: difficulties of access, lack of

interpreters, unequal and humiliating treatment, arbitrary behaviour and abuses of all types from the authorities. They use expressions such as, "There's never any justice for indigenous people", to describe this situation. Yet, as the President of the Supreme Court of Justice told the mission, "Rural people have deep respect for the law".

55. The Indigenous Agreement focuses especially on putting an end to this discrimination and giving consideration to customary law in the administration of justice. Efforts have aimed at achieving this goal, with support and cooperation from the international community and MINUGUA. The pilot projects in the administration of justice and multilingualism begun in 1996 at Quetzaltenango, San Marcos, Totonicapán and Nebaj have continued. Legal translators have been trained and translator's posts created in some courts. University institutes, have in coordination with MINUGUA, Mayan organizations and community authorities have conducted research into customary law. Customary law is by definition diverse, fragmented and based on legal precedence. Consequently, there is no point in seeking a generalized system of reference or trying to gain exhaustive knowledge of customary law before putting it into practice. This is all the more valid as customary law is sure to evolve as it is put into practice and in terms of its relationship with formal law, both national and international.

VI. UPROOTED PERSONS

56. In connection with the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, signed on 17 June 1994, UNHCR support made possible the return from camps in Mexico of nearly 3,500 people during 1997. Similarly, in December 1997, representatives of the refugees and the Government of Guatemala signed an agreement aimed at completing the registration of the last Guatemalan candidates for organized return, who are estimated at between 5,000 and 6,000. Many refugees have decided to remain in Mexico because of the conditions offered them by the Mexican authorities. This agreement would appear to end a lengthy return process involving approximately 35,500 people between 1986 and September 1997, according to information provided by the National Committee for Aid to Refugees, Returnees and Displaced Persons (CEAR).

57. Despite the Agreement's broad coverage of the refugee population, the future of those forced into internal displacement by the armed conflict is not clear. According to information supplied by the CEAR Governing Board, the difficulties in identifying the internally displaced, who are scattered throughout the country, makes it impossible to introduce a specific policy for this type of uprooted population group and the Government hopes to cover this sector through the general programmes for low-income groups.

58. The internally displaced, who have organized themselves into Communities in Resistance (CPRs), have concluded agreements with the Government guaranteeing that they will be transferred to lands that are being negotiated for purchase. La Sierra CPR completed such an agreement on 9 December 1997; other CPRs in the country are currently negotiating with the authorities.

VII. CLARIFICATION OF PAST HUMAN RIGHTS VIOLATIONS

59. The Agreement on the Establishment of the Commission to Clarify Past Human Rights Violations and Acts of Violence that Have Caused the Guatemalan Population to Suffer, adopted in Oslo, Norway, on 23 June 1994, was an important step towards reclaiming the memory of the past and drawing the lessons and conclusions that will prevent the recurrence of the suffering which the Guatemalan people have experienced for decades. Similar efforts have been made by civil society, especially the Catholic Church, which, as part of its "Reclaiming the Historical Memory" project, has spent two years collecting thousands of statements by victims of the violence, which will be published shortly.

60. The Commission to Clarify Past Human Rights Violations established by the Agreement began work on 31 July 1997 and has been collecting statements and information from the people. It has also requested cooperation from the army and URNG. Although the Commission has gradually begun to receive more and better cooperation from URNG, this is not the case for the army, which has been providing general rather than specific operational plans. The mission informed the Minister of Defence of its concerns in this area and was assured that the Commission would be provided with this type of information. The lack of such information makes it difficult to reconstruct the truth and establish precisely how certain situations arose which resulted in serious violations of civilians' rights.

61. The question of the compensation of or assistance to the victims of human rights violations is closely linked to that of the clarification of past violations. The Commission to Clarify Past Human Rights Violations is expected to make proposals and recommendations on this point. It should, however, be borne in mind that the Comprehensive Agreement on Human Rights contains a commitment "to compensate and/or assist victims of human rights violations" (VIII.1.). Although the compensation programme was scheduled to begin operating in late 1997, no definite progress in this direction has been noted. The mission was told by Government representatives that it would be possible to organize such a programme more effectively if the proposals to be made by the Commission to Clarify Past Human Rights Violations in the first quarter of 1998 could be taken into consideration.

VIII. AGREEMENT ON THE BASIS FOR THE LEGAL INTEGRATION OF THE UNIDAD REVOLUCIONARIA NACIONAL GUATEMALTECA

62. According to the information provided by the URNG leadership, the slowness and inadequacy of decisions on plans and projects for incorporating the members of URNG into society have hampered the peace process unnecessarily and led to uncertainty and lack of credibility. 4/

63. Four temporary shelters were being maintained through the end of 1997 to accommodate approximately 450 former combatants who were having difficulty relocating in their regions of origin or had not succeeded in reuniting with their families. The Special Commission for Reinsertion (CEI) has been defining programmes for assisting those still living in the shelters by

establishing a list of the main points needed for their permanent reintegration into society. The mission was informed that the shelters might be dismantled in the first quarter of this year.

64. URNG and MINUGUA agreed that there had been no acts of violence against members of URNG that could be considered as specifically targeting that organization. The cases that have arisen bear every indication of being isolated and selective events that do not conform to a pattern of politically motivated aggression.

65. The mission was also informed that the Unidad Revolucionaria Nacional Guatemalteca began the procedure for becoming a political party on 18 June 1997, as stipulated in the Agreement on the Basis for the Legal Integration of URNG. The charter of the new political body, which will also be called URNG, was adopted on 30 August 1997. When the mission visited the country, members of the start-up group for the new organization were in the process of collecting the signatures required to register it as a political party.

66. The mission was told by the URNG leadership that the fact that it was not legally registered as a political party has limited both its role in the national sphere and its public statements. The mission noted that the limited political role being played by URNG means that the daily role of convincing the people of the usefulness and significance of the Agreement falls to the other party, i.e. the Government of Guatemala alone. This is particularly awkward in a situation where, although the population at large cherishes the peace attained after 36 years of conflict, the various sectors of civil society have not yet made a sufficient commitment to the implementation of the Agreements.

IX. CONCLUSIONS AND RECOMMENDATIONS

67. The trend towards a gradual improvement in respect for human rights in Guatemala continued through 1997. This was largely due to the signing of the Agreement on a Firm and Lasting Peace on 29 December 1996. A process of transition has begun towards the democratization of Guatemalan society, the strengthening of civilian power and the recognition of the rights of indigenous peoples, eagerly awaited by the international community in general and by Guatemalan society in particular. The signing of the peace agreements raises a series of challenges not only for the parties - the Government of Guatemala and URNG - but for Guatemalan society as a whole.

68. The reorganization of the government in such a way that human rights violations are no longer part of State policy is an important achievement that has been reaffirmed throughout 1997. Some basic goals still need urgently to be met, however, such as the building of sound institutions for preventing, investigating and if necessary punishing any human rights violations that might occur. In this context, special attention should be paid to the history of social and political exclusion of the Maya, Garífuna and Xinca peoples.

69. From this perspective, the importance represented by the signing and implementation of the peace agreements has been undermined by the limited extent to which the main actors on the Guatemalan political and institutional

scene identify with it. This would suggest that the contents of the different agreements should be given more extensive and systematic publicity and that a special effort should be made to make the public aware of the improvement in their daily lives which the implementation of the agreements would signify. To this end, the Government should ensure that the agreements are adequately publicized by all means available, bearing in mind the multicultural and multilinguistic nature of the Guatemalan nation and should encourage the entire population and its organizations to learn about, analyse and assimilate them.

70. The widespread awareness of the deterioration in citizen security makes the effective functioning of the administration of justice (including the Public Prosecutor's Office) and the public security system particularly urgent. The inter-agency coordination developed in 1997 between the Supreme Court of Justice, the Public Prosecutor's Office and the Ministry of the Interior was a step forward that should achieve concrete results in the prevention and punishment of crime in general and organized crime in particular.

71. With a view to strengthening civilian power, as provided for in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, the Congress of the Republic must give prompt and appropriate attention to the proposals for constitutional reform submitted by both the Government and the Commission on the Strengthening of the Justice System and ensure that they are processed and adopted promptly, with full respect for the letter and spirit of the Agreement.

72. Serious deficiencies in the administration of justice continue and the judicial reform referred to in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society remains a priority. To this end, it is essential for judicial functions to be separated from administrative functions, so that the Supreme Court of Justice as a whole and each of its divisions can give its exclusive attention to judicial tasks. It is also essential for the recommendations of the Commission on the Strengthening of the Justice System with regard to the Career Judicial Service Act, the length of service of judges and members of the Supreme Court and the mechanisms for selecting and appointing them to be implemented as soon as possible, as stipulated in the Agreement.

73. The strengthening of the Judicial Training School and the training unit of the Public Prosecutor's Office should continue. This is an essential means of achieving excellence and professionalism in the administration of justice. The Judicial Training School and training unit of the Public Prosecutor's Office have an important role to play in evaluating the results of the competitive examinations to be introduced by the new Career Judicial Service Act and the relevant criteria relating to the Public Prosecutor's Office. Special attention should be paid to strengthening and improving the Public Prosecutor's Office, given the challenge represented by the introduction in Guatemala of the adversarial criminal law system, which places the burden of conducting the investigation precisely on the Public Prosecutor's Office. Although progress has been made in strengthening the Public Defender's Office,

it is necessary to improve the training of its professional staff, increase the number of public defenders and continue adding bilingual officials and public defenders.

74. To dispel doubts about Guatemala's determination to respect its international commitments, these commitments should be taken into consideration whenever laws are enacted and/or implemented and interpreted. This is particularly important to the question whether the death penalty should be established or whether it should apply to offences to which it did not apply when the American Convention on Human Rights was ratified. Suggestions that the international legal order that has been built with Guatemala's active participation should be disregarded are totally out of place and inappropriate for the country's requirements in its relations with the international community today.

75. New efforts must be made, especially in the framework of MINUGUA, to strengthen the investigatory capacity of the Office of the Human Rights Procurator. Efforts to professionalize the office should include increasing its budgetary resources to enable it to carry out its task and be less dependent on international cooperation, which cannot be counted on to continue through the medium term.

76. The mission believes that the current situation of citizen insecurity is one of the greatest threats to the peace process. It therefore recommends that the National Civil Police and the Police Academy should be strengthened through the expansion of in-service training programmes for the entire police force and, especially, the training of personnel carrying out criminal intelligence and investigation work.

77. In order to curb the adverse effects of the current situation of citizen insecurity and especially the offence of abduction on Guatemalan society and the peace process, the mission is of the view that the National Civil Police should take responsibility for all aspects of action to combat the offence of abduction and that it should be provided with specialized or elite units to help it improve the results of its efforts to combat the offences of extortion and abduction. The mission calls on the international community to provide the technical and financial support that will be needed for establishing these specialized police bodies. The mission also considers it important for the Presidential Chief of Staff to be dissolved as soon as possible and a new agency organized to guarantee the security of the President and Vice-President of the Republic and their families.

78. As the army is being used in police operations, the mission believes that the Government should establish precise rules governing the purpose and scope of and conditions for temporary participation by the army in operations involving citizen security, train the military personnel participating in these operations in police techniques and introduce mechanisms for controlling military participation in operations involving citizen security.

79. On the basis of the information with which it was provided, the mission has concluded that programmes for the reintegration of former members of the army as productive members of society should be stepped up and expanded and

it calls on the international community and international agencies with experience in this area to add their efforts to the programmes already being conducted by the Government of Guatemala.

80. In the social and economic sphere, the Government has tried to give priority to social spending in areas such as health, education, housing, employment and improving the infrastructure, especially the road network in rural areas. Nevertheless, some delays in this area and the slow rate at which certain planned investments are being made are having an adverse effect on the achievement of the Agreement on Social and Economic Aspects and the Agrarian Situation and therefore on the people's enjoyment of their economic and social rights.

81. The Government of Guatemala has chosen not to focus its social programmes on any one sector of the population, such as the internally displaced, in order not to introduce a sort of discrimination which would, according to this view, give rise to new inequalities. This argument makes it especially urgent and important to strengthen and improve policies for combating extreme poverty and, as part of this process, enhancing rural development. A high priority in this context is to achieve results in making the land market more flexible, to gather together a land stock (including State-owned land) and to make progress in reassigning the land to those who need it. As a step in this direction, the institutional mechanisms provided for in the Social and Economic Agreement, especially the Land Trust Fund, should begin operating as soon as possible.

82. With regard to taxes, an important step was taken recently with the establishment of a Tax Administration Supervisory Board, which should be provided with the appropriate legal and technical tools to enable it to achieve tangible short-term results in combating the tax evasion that is now occurring on a large scale. The Board is an essential instrument for achieving the tax goals stipulated in the Social and Economic Agreement.

83. The Agreement on the Identity and Rights of Indigenous Peoples establishes some very important principles and goals for combating the exclusion and discrimination directed in the past against indigenous peoples in Guatemala. The process under way has already led to the recognition of areas where indigenous people can exercise their rights. The implementation of the Agreement requires the adoption of constitutional, legal and administrative reforms, the introduction of new institutions and, especially, the encouragement of radical changes in the behaviour and attitude of the authorities and various sectors of society. The process of adopting the necessary constitutional and legal reforms should be speeded up and they should be used as a standard for the redefinition of policies and attitudes.

84. The indigenous organizations and communities of Guatemala are key actors in the implementation of the Indigenous Agreement. The recognition within the Guatemalan State of their role in practising customary law and the fact that the official justice system has incorporated into its own policy the principles and criteria used by the indigenous peoples in solving their conflicts are important achievements which should be strengthened and further developed. The experiments begun in Quetzaltenango and Nebaj aimed at reconciling the official justice system and customary law should be closely

observed as a basis for what might become a durable national strategy. In this context, the international community should pay special attention to the desire of indigenous organizations in Guatemala to expand their relations with the international community and be given the cooperation they need to strengthen and develop.

85. The Commission to Clarify Past Human Rights Violations is doing some very important work in drawing the conclusions and lessons from the past that will prevent the recurrence of acts of violence such as those suffered by the Guatemalan people for the last three decades. Civil society's efforts in this direction are also worthy of praise, especially the significant work being done by the Catholic Church for over two years as part of its "Reclaiming the Historical Memory" project. In the time that remains for it to complete its work, the Commission to Clarify Past Human Rights Violations must be given the cooperation and information it needs from the actors concerned, in particular the Guatemalan army. The conclusions and recommendations to come out of its report should be given special attention and consideration by the Government, especially with regard to the compensation of the victims of the violence and human rights violations.

86. The efforts of the Guatemalan people to solidify peace and enforce human rights deserve the support and attention of the international community in general and the United Nations in particular. The role that MINUGUA is playing in monitoring the Agreements concluded between the Government of Guatemala and URNG is of crucial importance. In addition to these efforts, the Office of the United Nations High Commissioner for Human Rights should continue the advisory assistance and training in the field of human rights that it has been providing in Guatemala since 1997.

87. As stated in the introduction to this report, the Commission on Human Rights has been closely monitoring developments in the human rights situation in Guatemala through various mechanisms since 1979. As the positive developments represented by the peace negotiations and the signing and implementation of the agreements have shown, these efforts have not been in vain. The members of the Commission can keep informed of developments through MINUGUA's periodic reports, which are based on verification and observance of the human rights situation in the field and of compliance with the agreements concluded.

Notes

1/ Commission on the Strengthening of the Justice System, Report and Recommendations on Constitutional Amendments relating to the Administration of Justice, Guatemala, August 1997, p. 29.

2/ The concept of "indigenous peoples" as used in the Agreement refers to the Maya, the Garífuna and the Xinka peoples. The Xinka language, of Nahua origin, is spoken by a few hundred people on the El Salvador border. The Garífunas are an Afro-Caribbean group found on the Atlantic coast.

3/ It should, however, be noted that the Indigenous Agreement strengthens and supplements the specific commitments to indigenous populations already made by the Guatemalan State: Guatemala is a party to the International Covenant on Civil and Political Rights (article 27 of which requires States to respect the cultural, religious and linguistic rights of their minorities) and the International Convention on the Elimination of All Forms of Racial Discrimination. In May 1996, Guatemala ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, which entered into force in June 1997.

4/ URNG report, "A un año de la firma de la paz y el futuro de Guatemala", 17 December 1997.

Annex I

PROGRAMME OF WORK OF THE MISSION TO GUATEMALA

Date	Persons interviewed
Monday, 8 December 1997	Meeting with Mr. Mauricio Valdez, Deputy Resident Representative, and Mr. Brian Treacy, Adviser, United Nations Development Programme (UNDP).
	Meeting with MINUGUA officials.
Tuesday, 9 December 1997	Mr. Alejandro Maldonado Aguirre, President of the Constitutional Court.
	Mr. Rodolfo Mendoza Rosales, Minister of the Interior.
	Mr. Ricardo Stein, Deputy Director, Secretariat for Peace (SEPAZ).
	Mr. José Luis Gándara Gaborit, Executive Director of the National Committee for Aid to Refugees, Returnees and Displaced Persons (CEAR).
	Mr. Rafael Chan Chavac, National Indigenous and Peasant Coordinating Committee (CONIC).
	Mr. Hugo Lorenzo, Acting Director of the Human Rights Division of MINUGUA.
Wednesday, 10 December 1997	Mr. Félix Castillo Milla, President of the Supreme Electoral Court.
	Mr. Roberto Moreno, Minister of Education.
	Mr. Marco Tulio Sosa, Minister for Public Health and Social Welfare.
	Mr. Angel Antonio Conte, Director of the National Police.
	Mr. Enrique Godoy García-Granados, Executive Director of the National Fund for Peace (FONAPAZ).
	Mr. Christian Tomuschat, Chairman of the Commission to Clarify Past Human Rights Violations (CEH).

Meeting with representatives of the bodies of the United Nations system in Guatemala, Mr. Nicolai Prytz (UNHCR), Mr. Jim Mayrides (UNICEF), Mr. Jacobo Finkelman (WHO/PAHO), Mr. Mario Sergio de León (UNFPA), Mr. Gian Carlo Stopponi (WFP) and Ms. Regina Caffaro (DANIDA-UNESCO Project).

Meeting with members of the Project on Technical Cooperation in Guatemala, Office of the United Nations High Commissioner for Human Rights.

Meeting with magistrates of the judiciary.

Thursday, 11 December 1997 — Mr. Angel Alfredo Figueroa, President of the Supreme Court of Justice and the Judiciary.

Mr. Francisco Bonifaz Rodríguez and Mr. Roberto Ardón Quiñonez, President and Executive Director of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF).

Mr. Edmond Mulet, Secretary-General of the Unión del Centro Nacional.

Meeting with representatives of non-governmental human rights organizations: Runujel Junam Ethnic Communities Council (CERJ), Human Rights Research, Study and Development Group (CIEPRODH), CONADEGUA, National Human Rights Coordinating Committee, Guatemalan Association of Relatives of Detained/Disappeared Persons (FAMDEGUA), Myrna Mack Foundation and Mutual Support Group (GAM).

Friday, 12 December 1997 — Mr. Eduardo Stein Barillas, Minister for Foreign Affairs.

Mr. Raúl Molina Mejía, Joint Office of the Guatemalan Opposition (RUOG).

Mr. Ulysses C. Dent, Secretary-General of the National Liberation Movement (MLN).

Meeting with representatives of indigenous, peasant and Mayan organizations (Communities in Resistance of El Petén, Ixcán and La Sierra, FUNDAMAYA and COPMAGUA (Tukum Umam), Council of Mayan Organizations of Guatemala (COMG); Academy of Mayan Languages of Guatemala; Agency for Mayan Unity and Consensus).

Meeting with MINUGUA officials.

Saturday, 13 December 1997	Mgr. Juan Gerardi, Archdiocesan Human Rights Office of Guatemala.
Sunday, 14 December 1997	Mr. Jean Arnault, Director of MINUGUA.
Monday, 15 December 1997	Mr. Alvaro Arzú Irigoyen, President of the Republic.
	Brigadier-General Héctor Mario Barrios C., Minister of Defence.
	Mr. Ramiro Ordóñez Jonama, Deputy Procurator-General of the Nation.
	Mr. Jorge Ismael Soto García and Mr. Rodrigo Asturias, representatives of the Unidad Revolucionaria Nacional Guatemalteca (URNG), and the official responsible for international relations.
	Mr. Amílcar Méndez and representatives of the Frente Democrático Nueva Guatemala.
Tuesday, 16 December 1997	Ms. Arabella Castro Quiñones, President of the Congress of the Republic.
	Mr. Héctor Cifuentes, Minister of Labour and Social Security.
	Mr. Alvaro Colom, Executive Director of CONTIERRA.
	Mr. Rolando Archila Marroquín, President of the Guatemalan Chamber of Journalism, members of the Executive Committee of the Chamber and members of the Guatemalan Media Association and Advertising Media Association.
	Ms. Claudia Samayoa, Rigoberta Menchú Foundation.
	Mr. Frank La Rue, Executive Director of the Centre for Legal Action on Human Rights (CALDH).
	Meeting with representatives of the Group of Countries Friends of the Peace Process and other members of the diplomatic corps: Ms. Angela Robaye Bello (Colombia); Mr. Lajos Arendas (Canada); Mr. Víctor Luis Fagilde (Spain); Mr. William Brencick (United States of America); Mr. Arend Pieper (Netherlands); Mr. Peter Marcus Newton (United Kingdom of Great Britain and

Northern Ireland); Mr. Staffan Wrigstad (Sweden); Mr. Lorenzo Sánchez (European Union); Mr. Julio César Moreno and Mr. Wolfgang Silveira (Venezuela); and Mr. Patrick Zahnd (International Committee of the Red Cross - ICRC).

Meeting with MINUGUA officials.

Wednesday, 17 December 1997 — Mr. Julio Arango Escobar, Human Rights Procurator..

Trip to Cobán, Alta Verapaz:

Meeting with officials of the MINUGUA Regional Office and the Commission to Clarify Past Human Rights Violations.

Meeting with officials of the Office of the United Nations High Commissioner for Refugees (UNHCR).

Meeting with representatives of the Coordinating Committee for the Internally Displaced, Returnees and Former Members of URNG in Alta Verapaz.

Meeting with representatives of Mayan peasant communities and organizations.

Meeting with representatives of non-governmental human rights organizations and the Social Pastoral Service for Peace.

Meeting with officials of the Regional Office of the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH).

Meeting with Mr. Jorge Balsells Tut, Mayor of Tucurú.

Thursday, 18 December 1997 — Mr. Héctor Hugo Pérez Aguilera, Attorney-General of the Republic.

Mr. Gabriel Aguilera, Deputy Minister for Foreign Affairs.

Mr. Julio Rafael Mendizábal, President of the Guatemalan Association of Journalists.

Mr. Nery Estuardo Rodenas, Legal Coordinator of the Archdiocesan Human Rights Office of Guatemala.

Meeting with trade unions:

Mr. José E. Pinzón, Secretary-General of the General Confederation of Guatemalan Workers z(CGTG); Mr. Jorge Pu Mendoza (CGTG); Mr. Julián Melchor Guzmán (CGTG); Ms. Florencia Castañeda (CUSG); Mr. Everildo Revolorio Torres (CUSG); Mr. Victoriano Zacarías (FENATRA); and Mr. Manuel Pablo Quino, Executive-Secretary of FEDECAMPO; representatives of UASP and UNSITRAGUA.

Ret. General Efraín Ríos Montt, Secretary-General of the Frente Republicano Guatemalteco (FRG), and members of the party's Political Board.

Mr. Alfonso Portillo Cabrera.

Friday, 19 December 1997

Ms. Marta Altolaguirre, Chairman of the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH).

Mr. Patrick Zahnd, Regional Representative for Central America, Mexico and the Caribbean, and Mr. Dominique Henry, Delegate, International Committee of the Red Cross (ICRC).

Final meeting with Mr. Jean Arnault, Director of MINUGUA.

Final meeting with Mr. Lars Franklin, Resident Representative, Mr. Mauricio Valdez, Deputy Resident Representative and Mr. Brian Treacy, Adviser, United Nations Development Programme (UNDP).

Annex II

COMPLAINTS OF HUMAN RIGHTS VIOLATIONS RECEIVED BY THE MISSION DURING ITS STAY IN GUATEMALA

1. While in Guatemala, the mission received an insignificant number of complaints of human rights violations, which it referred to MINUGUA for verification. One complaint concerned the disappearance of an individual, but made no mention of either the alleged culprits or further details of the circumstances of the disappearance. Others referred to lack of enjoyment of certain economic or social rights.

2. The mission was informed of the death of a peasant, 18-year-old Francisco Escobar Vi, during an invasion attempt against La Perla estate on 23 November 1996. The shots which killed him were fired by a peasant on the estate in an attempt to drive back the invasion, which was carried out by 756 peasants from Sotzil village.

3. Forty-five-year-old Manuel Chuc Caal and 37-year-old José Elías Salazar Lorenzo were killed by shots fired by José Antonio Cruz Monzón, Mayor of Poptún, El Petén Department, in the midst of confusion following the occupation of the Mayor's office by peasants from La Romana village who were demanding that the Mayor keep his promise to build a road.

4. The mission was also informed of the death of an infant, 44-day-old Antonio José Vélez Argueta, on 22 September 1996 at kilometre 252 of the Mesilla-Huehuetenango Road by three individuals wearing camouflage and ski masks who stopped the vehicle in which the infant was travelling with his mother. The injured infant was taken to Military Zone 19 base in Huehuetenango, where he reportedly died on failing to receive prompt treatment. An army specialist then approached the mother and told her that the target of the attack had been a doctor by the name of Pensamiento. The child's mother was later able to ascertain that the doctor in question had left the region after the attack and that his car had the same features and colour of the one in which she and her son had been travelling.

5. The mission received complaints of death threats against judges of the Third Trial Court for Criminal Matters, Drug Trafficking and Environmental Offences of Guatemala Department, Iris Yasmín Barrios Aguilar and Morelia de Villalta. The court had sentenced several former officials and policemen to harsh prison terms for the murder of a university student, Mario Alioto López Sánchez, during a student demonstration.

6. A complaint was also received of death threats and harassment against 30-year-old Manuela Macaria Morales and 33-year-old Felipa Toj Gómez, members of the Executive Committee of the Runujel Junam Ethnic Communities Council (CERJ). It was stated that these persons have twice been forced to leave their homes and go into hiding. On 26 August 1997 and 15 September 1997, seven hooded and armed men wearing olive-drab uniforms raided their homes in Chinique Municipality, El Quiché Department.

7. The mission was informed of acts of intimidation, harassment, aggression and threats against a human rights activist, María Francisca Ventura Sicán, and her relatives. Ms. Ventura Sicán is the widow of evangelical minister Manuel Saquic Vásquez, who was murdered in 1995 after witnessing the abduction of another member of the Human Rights Committee, Kaqchikel Maya de Panajabal, in Chimaltenango Department. It was reported that Ms. Ventura Sicán's home was fired on by unknown persons on 26 November 1997 and that her eight-year-old daughter, Milfred Saquic, was wounded in the arm. Days after the attack, uniformed men visited the home of Ms. Ventura Sicán's father looking for her.

8. A complaint was lodged concerning the abduction of Ademir Vásquez Méndez, nephew of the President of CERJ and a current deputy, Amílcar Méndez Urízar, on 6 May 1997, in an attempt to intimidate Mr. Méndez Urízar. Vásquez Méndez was released on 4 June 1997. Méndez Urízar had previously informed the competent authorities that he had been receiving death threats through anonymous telephone calls.